

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JANE DOE NO. 1, JANE DOE NO. 2, and
JANE DOE NO. 3,

Plaintiffs,

v.

BACKPAGE.COM, LLC, CARL
FERRER, MICHAEL LACEY, and
JAMES LARKIN,

Defendants.

Docket No. C.A. 17-cv-11069-LTS

**ASSENTED-TO MOTION TO EXTEND TIME TO ANSWER COMPLAINT
AND MOTION TO CONTINUE SCHEDULING CONFERENCE**

The undersigned counsel respectfully submit this motion to extend the Defendants' time to file an answer to the Plaintiffs' First Amended Complaint from May 3, 2018 to June 4, 2018, and to continue the Scheduling Conference set for May 7, 2018, to June 6, 2018. Plaintiffs assent to the request to extend the answer date, but not to continuation of the Scheduling Conference.

In support of this motion, the undersigned counsel state as follows.

1. On March 29, 2018, the Court granted in part and denied in part the Defendants' motion to dismiss the plaintiffs' original Complaint. On the same date, the Court ordered a Scheduling Conference to take place on May 7, 2018.

2. On Friday, April 6, 2018, certain of the defendants were arrested in connection with a federal indictment in the U.S. District Court for the District of Arizona. *See U.S. v. Lacey et al*, CR 18-00422-PHX-SPL.

3. On April 11, the undersigned filed an assented-to motion requesting an extension of time to respond to the then-operative complaint. (Doc. No. 57). The motion explained that,

“[c]onsistent with their professional responsibilities, the undersigned counsel require additional time to permit them not only to attend to immediate exigencies caused by the proceedings in the District of Arizona, but also to permit counsel to ascertain the status of their representation of the Defendants in this action going forward.” (Id.). The Court allowed the motion on April 12, 2018.

4. The plaintiffs filed their First Amended Complaint on April 12. The Defendants’ response is currently due on May 3, 2018.

5. On April 26, Nanci Clarence, counsel to defendant Carl Ferrer and to certain entities related to Ferrer, including defendant Backpage.com, LLC, filed a letter with this Court, signed by Ferrer, concerning a previously-issued notification from Davis Wright Tremaine of the firm’s intent to withdraw from representing Ferrer and his related entities in this case and in other proceedings. The Ferrer letter asks counsel to request a 30-day extension of time on all deadlines to permit Ferrer to secure new counsel. The letter further objects to any continued representation by Davis Wright Tremaine of two other defendants in this action, James Larkin and Michael Lacey.

6. In light of these developments, and of the ongoing issue of the legal representation of the defendants, counsel respectfully request that the deadline to respond to the First Amended Complaint be extended 30 days, to June 4, 2018, and that the Scheduling Conference, currently set for May 7, likewise be continued until June 6, 2018. These extensions will afford time for new counsel to be retained, and will serve the interests of justice and due process.

7. In their “Statement Pursuant to Fed R. Civ. P. 16(b) & 26(f) and Local Rule 16.1,” under the heading “Proposed Motion and Discovery Schedule,” Plaintiffs propose that the

deadline for Defendants to answer or otherwise plead in response to the First Amended Complaint remain at May 3—notwithstanding their statement in the same document that they “consent to a 30-day extension” of that deadline. (Doc. No. 66). Plaintiffs further propose that a Rule 16 Scheduling Conference be held on the original date scheduled, May 7.

8. Assuming Plaintiffs continue to assent to the extension of the answer deadline, a continuance of one date but not the other would make no practical sense. The scope and contours of any Rule 16 conference generally depend on the defendants’ response to the operative complaint. Especially here, given the issues identified in the Ferrer letter, holding a Scheduling Conference on May 7 would be a fruitless exercise.¹

For the foregoing reasons, counsel for the Defendants respectfully move that the Defendants’ time to file an answer to the Plaintiffs’ First Amended Complaint be extended from May 3, 2018 to June 4, 2018, and that the Scheduling Conference set for May 7, 2018 be rescheduled to June 6, 2018, or such other date as is convenient.

Respectfully submitted,

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¹ Notwithstanding the issues reflected in the Ferrer letter, Plaintiffs request the Court consider “potential sanctions” against Defendants for not previously conferring with them in advance of the scheduling conference. Under the circumstances, no such sanctions are appropriate, particularly where plaintiffs identify no prejudice they have suffered.

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Dated: May 1, 2018

CERTIFICATE OF SERVICE

I hereby certify that the within document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and by first-class mail to any non-registered participants.

/s/ Jeffrey J. Pyle
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